

REMARKS

In accordance with the foregoing, previously withdrawn claims 5-7 and 18-28 have been cancelled without prejudice or disclaimer and claim 43 has been added. No new matter is presented in this Amendment. Therefore, claims 2-4, 8-17, and 29-40 are pending and reconsideration is respectfully requested.

REJECTIONS UNDER 35 U.S.C. §112:

Claims 2-4, 8-17, and 29-40 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The rejections are traversed.

Regarding the rejections of claims 2, 4, and 10, it is noted that the Examiner has reiterated her opinion that there is no support for defining the viscosity in units of centipoises (cPs) and that while centipoises represent one set of units to define viscosity it is not the only set possible. For support, the Examiner points to the existence of millipascals and centistokes as equivalents to centipoises.

In response, all of applicants' previous arguments are reiterated. In particular, it is noted that, since the units cited by the Examiner are equivalent to centipoises, there is no patentable distinction between them. Therefore, there is no reason to deny the applicants the opportunity to correct the claims by including cPs as units. Applicants further submit that since millipascals and centistokes are possible equivalent units of viscosity (but may not, in fact, be equivalent), the fact that applicants are only claiming centipoises should actually sway the Examiner's ultimate decision in their favor.

In addition, a new declaration by an additional expert in the field is being filed concurrently herewith to confirm that centipoises would have been understood as the units of measurement of viscosity in the original specification.

Regarding the rejections of claims 4, 11, 33, and 37 and 12, 32, and 36, it is noted that the Examiner's position remains that there is no support for claiming either 30% or 70% by volume as range points. In support, the Examiner suggested that since the October 2, 2003 declaration stated that the data in support of the 30/70 ranges was generated in August of 2003, it merely reveals that "[i]t was not until August of 2003 that there was recognition to the criticality of moving the data points to 30/70," and that, therefore, the rejections remain.

In response, applicants reiterate all of the previous arguments traversing these rejections and again respectfully point out that the issue of criticality should not be the subject of a proper 35 U.S.C. §112, first paragraph rejection. Rather, the applicants' position is simply that the narrow 20-30% and 70-80% ranges were disclosed by the originally claimed broad ranges of 20-40% and 60-80%. The declaration is being relied upon as further evidence of this fact.

Therefore, it is respectfully asserted that the rejections of the claims discussed above and any other claims to which the above argument applies are overcome for the reasons discussed above.

NEWLY ADDED CLAIM 43:

Newly added claim 43 incorporates subject matter of claims 1 and 3 and is believed to be allowable in accordance with the statements to that effect provided by the Examiner during the informal telephone conference of May 16, 2006.

CONCLUSION:


There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited. If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Finally, if there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

STEIN, MCEWEN & BUI, LLP

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By: 
Howard I. Levy
Registration No. 55,378

1400 Eye St., N.W.
Suite 300
Washington, D.C. 20005
Telephone: (202) 216-9505
Facsimile: (202) 216-9510